

PROJECT SPECIAL PROVISION

(10-18-95)

Z-1

PERMITS

The Contractor's attention is directed to the following permits which have been issued to the Department of Transportation by the authority granting the permit.

<u>PERMIT</u>	<u>AUTHORITY GRANTING THE PERMIT</u>
Dredge and Fill and/or Work in Navigable Waters (404)	U. S. Army Corps of Engineers
Water Quality (401)	Division of Environmental Management, DENR State of North Carolina

The Contractor shall comply with all applicable permit conditions during construction of this project. Those conditions marked by * are the responsibility of the department and the Contractor has no responsibility in accomplishing those conditions.

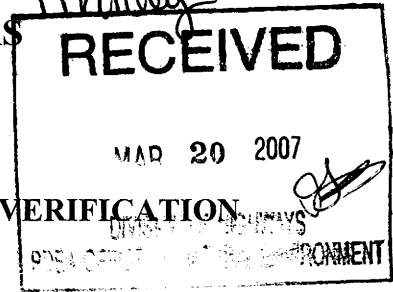
Agents of the permitting authority will periodically inspect the project for adherence to the permits.

The Contractor's attention is also directed to Articles 107-10 and 107-14 of the *Standard Specifications* and the following:

Should the Contractor propose to utilize construction methods (such as temporary structures or fill in waters and/or wetlands for haul roads, work platforms, cofferdams, etc.) not specifically identified in the permit (individual, general, or nationwide) authorizing the project it shall be the Contractor's responsibility to coordinate with the Engineer to determine what, if any, additional permit action is required. The Contractor shall also be responsible for initiating the request for the authorization of such construction method by the permitting agency. The request shall be submitted through the Engineer. The Contractor shall not utilize the construction method until it is approved by the permitting agency. The request normally takes approximately 60 days to process; however, no extensions of time or additional compensation will be granted for delays resulting from the Contractor's request for approval of construction methods not specifically identified in the permit.

Where construction moratoriums are contained in a permit condition which restricts the Contractor's activities to certain times of the year, those moratoriums will apply only to the portions of the work taking place in the waters or wetlands provided that activities outside those areas is done in such a manner as to not affect the waters or wetlands.

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT



ORM ID: SAW-2007-1026-164 County: Nash USGS Quad: Red Oak

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner / Authorized Agent: NC Department of Transportation

Address: attn: Gregory Thorpe, Ph.D.

1598 Mail Service Center

Raleigh, North Carolina 27699-1598

Telephone No.: 919-733-3141

Size and location of property (water body, road name/number, town, etc.): Bridge 34 on NCSR 1004 over Pig Basket Creek north of Nashville, Nash County, North Carolina. TIP B-3876.

Description of projects area and activity: Replace existing bridge (111 feet in length) and causeway with a new bridge (180 feet in length) and new causeway. New bridge and causeway will be immediately adjacent to the existing structure and will permanently impact 0.13 acres of riparian wetlands. The old bridge and causeway will be removed. Wetland restoration will be onsite as described in the submitted mitigation plan.

Applicable Law: Section 404 (Clean Water Act, 33 USC 1344)
 Section 10 (Rivers and Harbors Act, 33 USC 403)

Authorization: Regional General Permit Number: 198200031
Nationwide Permit Number: _____

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted plans. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order and/or appropriate legal action.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. If, prior to the expiration date identified below, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all new and/or modified terms and conditions. The District Engineer may, at any time, exercise his discretionary authority to modify, suspend, or revoke a case specific activity's authorization under any NWP.

Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Quality (telephone (919) 733-1786) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management.

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact William Wescott at 252-975-1616 ext. 31.

Corps Regulatory Official William Wescott P.W.S. Date: 03/14/2007

Expiration Date of Verification: 08/31/2008

Cc: _____

ORM ID: SAW-2007-1026-164

County: Nash

Permittee: NCDOT

Date Permit Issued: 3/14/2007

Project Manager: William Wescott

✱ Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT
WASHINGTON REGULATORY FIELD OFFICE
Post Office Box 1000
Washington, North Carolina 27889

Please note that your permitted activity is subject to a compliance inspection by a U. S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and condition of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

Additional Special Conditions

Action I.D. # SAW 2007-1026-164 - NCDOT, Division 4, TIP B-3876, NCSR 1004
(Bridge # 34)

a) All measures will be taken to avoid any temporary fill from entering into Pig Basket Creek from bridge demolition. Bridge demolition shall follow NCDOT best management practices for construction and maintenance activities dated August 2003 and incorporate NCDOT policy entitled "Bridge Demolition and Removal in Waters of the United States" dated September 20, 1999.

Pre-Construction

b) Prior to commencing construction within jurisdictional waters of the United States, the permittee shall forward the latest version of project construction drawings to the USACE, Washington Regulatory Field Office NCDOT Regulatory Project Manager. Half-size drawings are acceptable.

c) The permittee shall schedule an environmental preconstruction meeting between its representatives, the contractor's representatives, and the USACE, Washington Regulatory Field Office NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The permittee shall provide the USACE, Washington Regulatory Field Office NCDOT Regulatory Project Manager, with a copy of the final plans at least two weeks prior to the preconstruction meeting along with a description of any changes that have been made to the project's design, construction methodology or construction timeframe. The permittee shall schedule the environmental preconstruction meeting for a time when the USACE and North Carolina Division of Water Quality (NCDWQ) Project Managers can attend. The permittee shall invite the USACE and NCDWQ Project Managers a minimum of four weeks in advance of the scheduled meeting in order to provide those individuals with ample opportunity to schedule and participate in the required meeting.

d) Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill, or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands, or any activities that cause the degradation of waters or wetlands, except as authorized by this permit, or any modification to this permit. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. There shall be no excavation from, waste disposal into, or degradation of, jurisdictional waters or wetlands associated with this permit without

appropriate modification of this permit, including appropriate compensatory mitigation. This prohibition applies to all borrow and fill activities connected with this project.

e) To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent wetlands and streams, except as authorized by this permit, the permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The permittee shall provide the USACE with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the permittee has that information. The permittee will coordinate with the USACE before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. The permittee shall ensure that all such areas comply with condition (d) of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the preceding condition (d). All information will be available to the USACE upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

Mitigation

f) The unavoidable impacts to 0.13 acres of riparian bottomland hardwood forest associated with this project shall be mitigated by NCDOT with onsite and in-kind wetland restoration at a 1:1 (impact to mitigation) ratio. Mitigation will be accomplished by removing the old bridge and causeway and restoring riparian wetlands in the Tar River basin (Hydrologic Cataloging Unit 03020101) in accordance with the mitigation plan submitted with the permit application.

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Regional General Permit No. 198200031

Name of Permittee: General Public

Effective Date: September 1, 2003

Expiration Date: August 31, 2008

**DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT**

A regional general permit (RGP) to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby modified and re-issued by authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO AUTHORIZE THE DISCHARGE OF DREDGED OR FILL MATERIAL IN WATERS OF THE UNITED STATES, INCLUDING WETLANDS, ASSOCIATED WITH THE CONSTRUCTION, MAINTENANCE AND REPAIR OF BRIDGES, INCLUDING COFFERDAMS, ABUTMENTS, FOUNDATION SEALS, PIERS, APPROACH FILLS, DETOUR FILLS, BOX CULVERT INSTALLATION AND TEMPORARY CONSTRUCTION AND ACCESS FILLS, IN WATERS OF THE UNITED STATES AS PART OF WORK CONDUCTED BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) OR OTHER STATE, FEDERAL OR LOCAL GOVERNMENTAL ENTITY, IN THE STATE OF NORTH CAROLINA.

1. Special Conditions.

a. Written confirmation that the proposed work complies with this RGP must be received from the Wilmington District Engineer prior to the commencement of any work. To enable this determination to be made, the permittee must furnish the Wilmington District Engineer a pre-construction notification with the following information:

- (1) A map indicating the location of the work.
- (2) Plans of the proposed work showing all pertinent structures, elevations, dimensions and quantities of materials and locations of all structures and/or fill in wetlands or waterward of the normal/high water elevation contours.
- (3) A brief discussion of the affected aquatic resources, including streams and wetlands. The discussion shall include the identification and types of vegetation present.
- (4) Approximate commencement and completion dates.
- (5) A description of methods to be employed to avoid and/or minimize permanent and temporary impacts to aquatic resources caused by the proposed work.
- (6) Plans, including timetables and techniques, for construction, stabilization and removal of all unavoidable temporary fills.
- (7) Names and addresses of adjoining property owners.

b. In the case of fills of one acre or less, including permanent approach fills, detour fills and fills associated with culvert installation, the Corps of Engineers' Project Manager will determine, after appropriate onsite visits and review of plans, if the impacts on aquatic resources, including streams and wetlands, are likely to be such as to require review by Federal and State agencies. If it is determined that impacts are minimal or can be made minimal by changes agreed to by the applicant, a letter of authorization to proceed will be provided. If it is determined that review by Federal and State agencies is necessary to fully evaluate impacts, copies of all plans and materials will be forwarded to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental Protection Agency (EPA) and the North Carolina Department of Environment and Natural Resources (NCDENR). These agencies will furnish comments to the Wilmington District Engineer within thirty (30) days.

c. In cases of fills greater than one acre, copies of all plans and materials will be forwarded to the USFWS, the NMFS, the EPA and the NCDENR. These agencies will furnish comments to the Wilmington District Engineer in thirty (30) days. In cases of land disturbing activities comprising more than one acre, a Sedimentation/Erosion Control Plan will be filed with the North Carolina Division of Land Resources, Land Quality Section, thirty (30) days prior to commencing work.

d. Where work is proposed within the twenty (20) coastal counties, as defined by the North Carolina Division of Coastal Management, the applicant shall forward a copy of the pre-construction notification to:

National Marine Fisheries Service
 101 Pivers Island Road
 Beaufort, North Carolina 28516

The counties in which this condition applies are:

Beaufort	Hertford	Bertie	Hyde	Brunswick
New Hanover	Camden	Onslow	Carteret	Pamlico
Chowan	Pasquotank	Craven	Pender	Currituck
Perquimans	Dare	Tyrrell	Gates	Washington

e. In the event that any Federal agency maintains an objection or any required State authorization is outstanding, no notice to proceed will be given until objections are resolved and State authorizations are issued.

f. No work will proceed until after the applicant has received written notice to proceed from the Wilmington District Engineer. This notice may include additional conditions and/or restrictions. Copies of the notice to proceed will be furnished to the USFWS, the NMFS, the EPA and the NCDENR with a brief description of the work, including the area of wetlands affected and the quantity of fill material.

g. Upon completion of any work authorized by this RGP, all temporary fills will be completely removed and the area reestablished as a wetland by restoring natural hydrology and native vegetation. Stream contours and riparian vegetation will be reestablished upon the removal of temporary culverts. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition i. below.

h. Appropriate soil and erosion control measures must be established and maintained during construction. All fills; temporary and permanent, must be adequately stabilized at the earliest practicable date to prevent erosion of fill material into adjacent waters or wetlands.

i. In cases where new alignment approaches are to be constructed and the existing wetland approach fill is to be abandoned and no longer to be maintained as a roadway, the abandoned fill shall be removed and the area reestablished as a wetland. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition i. below.

j. Discharges of dredged or fill material into waters of the United States, including wetlands, must be minimized or avoided to the maximum extent practicable. In reviewing an activity, the Wilmington District Engineer will first determine whether the activity will result in more than minimal adverse environmental affects. For activities that are determined to have more than minimal impacts, compensatory mitigation will be required. To expedite the process, the applicant will provide a mitigation plan with the request for authorization. Site specific mitigation proposals will include, but are not necessarily limited to, a description of work, a

schedule of work and a monitoring plan, and they will be in accordance with currently approved Wilmington District and/or Corps-wide mitigation guidelines. The applicant may propose other forms of mitigation, such as mitigation bank credits or in-lieu fee mitigation with the notification, which in some situations and at the discretion of the Wilmington District, may be considered acceptable mitigation.

k. Activities in any North Carolina designated "Mountain Trout Waters" must comply with all pH, temperature and turbidity criteria established for such waters by the North Carolina Wildlife Resources Commission (NCWRC) and/or the North Carolina Division of Water Quality (NCDWQ). Work that may result in the sedimentation of trout waters will generally be prohibited from October 15 to April 15, of any year, to avoid impacts on trout spawning.

l. Before discharging dredged or fill material into waters of the United States, including wetlands, in the twenty-five (25) mountain counties of North Carolina that contain trout waters, the applicant will obtain and provide a letter of comments and recommendations from the North NCWRC on the proposed activities. A discussion of alternatives to working in the mountain trout waters and why alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the mountain trout waters shall also be submitted with the letter from NCWRC. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The applicant should contact:

**North Carolina Wildlife Resources Commission
Habitat Conservation Program Manager
1721 Mail Service Center
Raleigh, North Carolina 27699-1721
Telephone (919) 733-7638**

The counties in which this condition applies are:

Alleghany	Ashe	Avery	Buncombe	Burke
Caldwell	Cherokee	Clay	Graham	Haywood
Henderson	Jackson	Macon	Madison	McDowell
Mitchell	Polk	Rutherford	Stokes	Surry Swain
Transylvania	Watauga	Wilkes	Yancey	

m. This permit does not authorize the use of culverts in areas designated as anadromous fish spawning areas by the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC).

n. Discharges into Waters of the United States designated by either the North Carolina Division of Marine Fisheries (NCDMF) or the NCWRC as anadromous fish spawning area are prohibited during the period between February 15 and June 30, without prior written approval

from NCDMF or NCWRC and the Corps. Discharges into waters of the United States designated by NCDMF as primary nursery areas and discharges into waters of the United States designated by NCWRC as inland nursery areas shall be coordinated with NCDMF and NCWRC prior to being authorized by this RGP. Coordination with NCDMF and NCWRC may result in a required construction moratorium during periods of significant biological productivity or critical life stages.

The Applicant should contact:

NC Division of Marine Fisheries
 3441 Arendell Street
 Morehead City, NC 28557
 Telephone 252-726-7021
 or 800-682-2632

North Carolina Wildlife Resources Commission
 Habitat Conservation Program Manager
 1721 Mail Service Center
 Raleigh, NC 27699-1721
 Telephone (919) 733-7638

o. No activity may result in substantial permanent disruption of the movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area.

p. This permit generally allows the permanent installation of culverts to 100 feet in length. For culverts longer than 100 feet, the proposed application will be closely evaluated to determine if unacceptable impacts on movement of aquatic organisms would result. In such cases, approval may not be provided.

q. If the project is located within the twenty (20) counties of North Carolina designated as coastal counties by the Coastal Area Management Act (CAMA), then all pipe and culvert inverts will be buried at least one foot below normal bed elevation when they are placed within the Public Trust Area of Environmental Concern (AEC) and/or the Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on United States Geological Survey (USGS) quad sheets. If the project is not located within the twenty (20) counties of North Carolina designated as coastal counties by CAMA, then culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth specifications in this condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this condition would result in more adverse impacts to the aquatic environment.

r. All activities authorized by this RGP shall, to the extent practicable, be conducted "in the dry", with barriers installed between work areas and aquatic habitat to protect that habitat from cement or other pollutants. Where concrete is utilized, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened. Water in the work area will be pumped to holding and settling ponds as practicable, and water will not be allowed to re-enter the water column until decanted.

s. If the project authorized by this RGP is proposed by a Federal or State agency, and is located within the twenty (20) counties of North Carolina designated as coastal counties by the CAMA, then prior to project initiation the proponent must obtain a determination of consistency with the state's coastal management program from the N.C. Division of Coastal Management (DCM). A copy of the state's consistency determination must be provided to the appropriate Wilmington District Regulatory Office at the following address:

Wilmington Regulatory Field Office
P.O. Box 1890
Wilmington, NC 28402

Washington Regulatory Field Office
P.O. Box 1000
Washington, NC 27889

The state's consistency determination will be conveyed in the form of a CAMA permit if the project is located within a designated CAMA Area of Environmental Concern (AEC), and will be conveyed in the form of a Consistency Determination letter from DCM if the project is not located within a designated CAMA AEC.

t. No work shall be authorized by the RGP within the twenty coastal counties, as defined by the North Carolina Division of Coastal Management, without prior consultation with NOAA Fisheries. For each activity reviewed by the Corps of Engineers where it is determined that the activity may affect Essential Fish Habitat (EFH) for Federally managed species, an EFH Assessment shall be prepared by the applicant and forwarded to the Corps of Engineers and NOAA Fisheries for review and comment prior to authorization of work.

u. All work will comply with Water Quality Certification No. 3404, issued by the NCDWQ on 28 March 2003.

v. The activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill material must withstand expected high flows

2. General Conditions.

a. All activities authorized by this RGP that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged or fill material in waters of the United States, prior to the commencement of any work, the applicant will satisfy the NCDWQ regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

- b. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this RGP.
- c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this RGP, will, within 60 days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.
- d. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.
- e. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is 50 NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Environmental Management (NCDEM), 25 NTU's or less in all saltwater classes and in all lakes and reservoirs, and 10 NTU's or less in trout waters, are not considered significant.
- f. The permittee will permit the Wilmington District Engineer or his representative to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.
- g. This RGP **does not** convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a CAMA Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.
- h. Authorization provided by this RGP may be modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this RGP shall be five years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.
- i. This RGP does not authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or results from existing or future operations undertaken by the United States in the public interest.

j. This RGP will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

k. This RGP will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas that possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by State and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 as amended, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(4) Endangered or threatened species or critical habitat of such species as determined by the Secretaries of Interior or Commerce and concerned in accordance with the Endangered Species Act (16 U.S.C. 1531).

(5) NOAA designated marine sanctuaries, National Estuarine Research Reserves, and coral reefs.

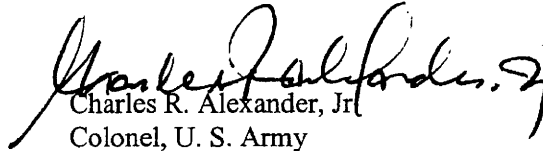
l. Permittees are advised that activities in or near a floodway may be subject to the National Flood Insurance Program, which prohibits any activities, including fill within a floodway that results in any increase in base flood elevations.

m. At his discretion, the Wilmington District Engineer may determine that this RGP will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

n. The permittee or the permittee's successors will maintain the authorized work in good condition and in conformance with the terms and conditions of the RGP.

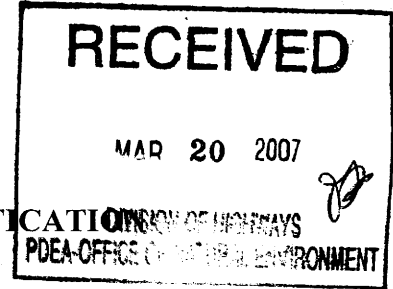
o. The discharge of dredged or fill material shall consist of suitable material free from toxic pollutants in toxic amounts.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



Charles R. Alexander, Jr.
Colonel, U. S. Army
District Engineer

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT



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ORM ID: SAW-2007-1026-164 County: Nash USGS Quad: Red Oak

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner / Authorized Agent: NC Department of Transportation
Address: attn: Gregory Thorpe, Ph.D.
1598 Mail Service Center
Raleigh, North Carolina 27699-1598

Telephone No.: 919-733-3141

Size and location of property (water body, road name/number, town, etc.): Intersection of NCSR 1431 and NCSR 1004 north of Nashville, Nash County, North Carolina. TIP B-3876.

Description of projects area and activity: Replace existing culvert (42-inch by 50-foot) under NCSR 1431 with a larger culvert (60-inch by 80-foot) in order to accommodate a safe turning radius and proper sight distance. This replacement will result in 30 linear feet of permanent stream impacts for the installation of this longer pipe. NCDOT will provide 90 linear feet of stream enhancement as onsite mitigation.

Applicable Law: Section 404 (Clean Water Act, 33 USC 1344)
 Section 10 (Rivers and Harbors Act, 33 USC 403)
Authorization: Regional General Permit Number: _____
Nationwide Permit Number: 3

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This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact William Wescott at 252-975-1616 ext. 31.

Corps Regulatory Official William Wescott, P.W.S. Date: 03/14/2007

Expiration Date of Verification: 03/18/2007

Cc: _____

ORM ID: SAW-2007-1026-164

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County: Nash

Permittee: NCDOT

Date Permit Issued: 3/14/2007

Project Manager: William Wescott

✱ Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT
WASHINGTON REGULATORY FIELD OFFICE
Post Office Box 1000
Washington, North Carolina 27889

Please note that your permitted activity is subject to a compliance inspection by a U. S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and condition of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

NATIONWIDE PERMIT 3
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 18, 2002

Maintenance: Activities related to:

1. The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation, or replacement, are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. This nationwide permit authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire, or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the District Engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

2. Discharges of dredged or fill material, including excavation, into all waters of the United States to remove accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional rip rap to protect the structure, provided the permittee notifies the District Engineer in accordance with General Condition 13. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. The placement of rip rap must be the minimum necessary to protect the structure or to ensure the safety of the structure. All excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the District Engineer under separate authorization. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the District Engineer.

3. Discharges of dredged or fill material, including excavation, into all waters of the United States for activities associated with the restoration of upland areas damaged by a storm, flood, or other discrete event, including the construction, placement, or installation of upland protection structures and minor dredging to remove obstructions in waters of the United States. (Uplands lost as a result of a storm, flood, or other discrete event can be replaced without a Section 404 permit provided the uplands are restored to their original pre-event location. This NWP is for the activities in waters of the United States associated with the replacement of the uplands.) The permittee must notify the District Engineer, in accordance with General Condition 13, within 12 months of the date of the damage and the work must commence, or be under contract to commence, within two years of the date of the damage. The permittee should provide evidence, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration. The restoration of the damaged areas cannot exceed the contours, or ordinary high water mark, that existed prior to the damage. The District Engineer retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this permit. Minor dredging to remove obstructions from the adjacent waterbody is limited to 50 cubic yards below the plane of the ordinary high water mark, and is limited to the amount necessary to restore the pre-existing bottom contours of the waterbody. The dredging may not be done primarily to obtain fill for any restoration activities. The discharge of dredged or fill material and all related work needed to restore the upland must be part of a single and complete project. This permit cannot be used in conjunction with NWP 18 or NWP 19 to restore damaged upland areas. This permit cannot be used to reclaim historic lands lost, over an extended period, to normal erosion processes.

This permit does not authorize maintenance dredging for the primary purpose of navigation and beach restoration. This permit does not authorize new stream channelization or stream relocation projects. Any work authorized by this permit must not cause more than minimal degradation of water quality, more than minimal changes to the flow characteristics of the stream, or increase flooding (See General Conditions 9 and 21). (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance.

NATIONWIDE PERMIT GENERAL CONDITIONS

The following General Conditions must be followed in order for any authorization by a NWP to be valid:

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper Maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. Aquatic Life Movements. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a 'study river' for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. Water Quality.

a. In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).

b. For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

11. Endangered Species.

a. No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWPs.

b. Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their World Wide

Web pages at <http://www.fws.gov/r9endspp/endspp.html> and <http://www.nfms.noaa.gov/protres/overview/es.html> respectively.

12. Historic Properties. No activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C.*The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

* 13. Notification.

a. Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

1. Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

2. If notified in writing by the District or Division Engineer that an Individual Permit is required; or

3. Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

b. Contents of Notification: The notification must be in writing and include the following information:

1. Name, address and telephone numbers of the prospective permittee;

2. Location of the proposed project;
3. Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);
4. For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));
5. For NWP 7 (Cutfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;
6. For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;
7. For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;
8. For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;
9. For NWP 29 (Single-Family Housing), the PCN must also include:
 - i. Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;
 - ii. A statement that the single-family housing activity is for a personal residence of the permittee;
 - iii. A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring $\frac{1}{4}$ -acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than $\frac{1}{4}$ -acre in size, formal wetland delineation must be prepared in accordance with the current

method required by the Corps. (See paragraph 13(f));

iv. A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

10. For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five-year (or less) maintenance plan. In addition, the PCN must include all of the following:

i. Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;

ii. A delineation of any affected special aquatic sites, including wetlands; and,

iii. Location of the dredged material disposal site;

11. For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;

12. For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;

13. For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

14. For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

15. For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

16. For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

17. For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

18. For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

c. Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

d. District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation

plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either:

1. That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit;
2. that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or
3. that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

e. Agency Coordination: The District Engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than $\frac{1}{2}$ -acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens

Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

f. Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (1/4)-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

* 14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;

b. A statement that any required mitigation was completed in accordance with the permit conditions; and

c. The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/3-acre).

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free

from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

a. The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site).

b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

c. Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

d. Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, $\frac{1}{4}$ -acre of wetlands cannot be created to change a $\frac{3}{4}$ -acre loss of wetlands to a $\frac{1}{2}$ -acre loss associated with NWP 39 verification. However, $\frac{1}{2}$ -acre of created wetlands can be used to reduce the impacts of a $\frac{1}{2}$ -acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

e. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

f. Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic

environment or, a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

g. Compensatory mitigation proposals submitted with the " notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

h. Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable

waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

a. Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

b. For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

a. Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.

b. Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.

c. The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the

project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

FURTHER INFORMATION

1. District Engineers have authority to determine if an activity complies with the terms and conditions of a NWP.
2. NWPs do not obviate the need to obtain other Federal, State, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

DEFINITIONS

Best Management Practices (BMPs): BMPs are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or nonstructural. A BMP policy may affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts, which remain, after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase

one or more aquatic functions.

Ephemeral Stream: An ephemeral stream has *flowing* water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as “floodway fringe”).

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

Independent Utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent Stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for a NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US. Impacts to ephemeral waters are only not included in the acreage or linear foot measurements of loss of waters of the US or loss of stream bed, for the purpose of determining compliance with the threshold limits of the NWPs.

Non-tidal Wetland: An area that, during a year with normal patterns of precipitation has

standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term “open water” includes rivers, streams, lakes, and ponds. For the purposes of the NWP, this term does not include ephemeral waters.

Perennial Stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for the most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWP 3, 25, 36, etc. are not included.

Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.

Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

Riffle and Pool Complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Single and Complete Project: The term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the “single and complete project” (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations; each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies.

Stormwater Management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater Management Facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.

Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters, which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to openwaters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers is a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement or preservation of aquatic habitats to ensure that activities authorized by NWP's result in minimal adverse effects to the aquatic environment. (See General Condition 19.)

Vegetated Shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

**FINAL REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE
WILMINGTON DISTRICT**

1. Waters Excluded from NWP or Subject to Additional Notification Requirements:

a. The Corps identified waters that will be excluded from use of this NWP. These waters are:

1. Discharges into Waters of the United States designated by either the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC) as anadromous fish spawning area are prohibited during the period between February 15 and June 30, without prior written approval from NCDMF or NCWRC and the Corps.

2. Discharges into Waters of the United States designated as sturgeon spawning areas are prohibited during the period between February 1 and June 30, without prior written approval from the National Marine Fisheries Service (NMFS).

* b. The Corps identified waters that will be subject to additional notification requirements for activities authorized by this NWP. These waters are:

1. Prior to the use of any NWP in any of the following North Carolina *designated waters*, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant must furnish a written statement of compliance with all of the conditions of the applicable Nationwide Permit. The North Carolina *designated waters* that require additional notification requirements are “Outstanding Resource Waters” (ORW) and “High Quality Waters” (HQW) (as defined by the North Carolina Division of Water Quality), or “Inland Primary Nursery Areas” (IPNA) (as defined by the North Carolina Wildlife Resources Commission), or contiguous wetlands (as defined by the North Carolina Division of Water Quality), or “Primary Nursery Areas” (PNA) (as defined by the North Carolina Division of Marine Fisheries).

2. Applicants for any NWP in a designated “Area of Environmental Concern” (AEC) in the twenty (20) coastal counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), must also obtain the required CAMA permit. Construction activities may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – P.O. Box 1890, Wilmington, NC 28402 or Washington Field Office – P.O. Box 1000, Washington, NC 27889) for authorization to begin work.

3. Prior to the use of any NWP on a Barrier Island of North Carolina, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable Nationwide Permit.

4. Prior to the use of any NWP in a “Mountain or Piedmont Bog” of North Carolina, applicants shall comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP.

Note: The following wetland community types identified in the N.C. Natural Heritage Program document, “Classification of Natural communities of North Carolina (Michael P. Schafale and Alan S. Weakley, 1990), are subject to this regional condition.

Mountain Bogs

- Swamp Forest-Bog Complex
- Swamp Forest-Bog Complex (Spruce Subtype)
- Southern Appalachian Bog (Northern Subtype)
- Southern Appalachian Bog (Southern Subtype)
- Southern Appalachian Fen

Piedmont Bogs

- Upland Depression Swamp Forest

5. Prior to the use of any NWP in Mountain Trout Waters within twenty-five (25) designated counties of North Carolina, applicants shall comply with Nationwide General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Notification will include a letter of comments and recommendations from the North Carolina Wildlife Resources Commission (NCWRC), the location of work, a delineation of wetlands, a discussion of alternatives to working in the Mountain Trout Waters, why other alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the Mountain Trout Waters. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The twenty-five (25) designated counties are:

Alleghany	Ashe	Avery	Yancey
Buncombe	Burke	Caldwell	Wilkes
Cherokee	Clay	Graham	Swain
Haywood	Henderson	Jackson	Surry
Macon	Madison	McDowell	Stokes
Mitchell	Polk	Rutherford	
Transylvania	Watauga		

6. Applicants shall notify the NCDENR Shellfish Sanitation Section prior to dredging in or removing sediment from an area closed to shell fishing where the effluent may be released to an area open for shell fishing or swimming in order to avoid contamination of the disposal area and allow a temporary shellfish closure to be made. Any disposal of sand to the beach should occur between November 1 and April 30 when recreational usage is low. Only clean sand should be used and no dredged sand from closed shell fishing areas. If beach disposal was to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a

swim advisory shall be posted and a press release shall be made. NCDENR Shellfish Sanitation Section must be notified before commencing this activity.

2. List of Final Corps Regional Modifications and Conditions for All Nationwide Permits

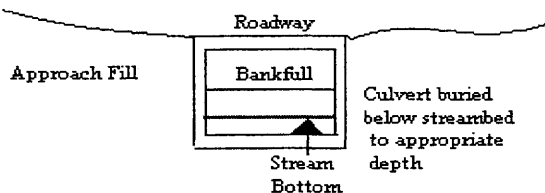
a. Individual or multiple NWP's may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).

b. Prior to the use of any NWP (except 13, 27, and 39) for any activity that has more than a total of 150 total linear feet of perennial streambed impacts or intermittent streambed impacts (if the intermittent stream has important aquatic function), the applicant must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Compensatory mitigation is typically required for any impact that requires such notification. [Note: The Corps uses the Intermittent Channel Evaluation Form, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of the intermittent channel stream status. Also, NWP's 13, 27 and 39 have specific reporting requirements.]

c. For all Nationwide Permits which allow the use of concrete as a building material, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened.

d. For all Nationwide Permits that allow for the use of riprap material for bank stabilization, filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

e. For all NWP's that involve the construction of culverts, measures will be included in the construction that will promote the safe passage of fish and other aquatic organisms. All culverts in the 20 CAMA coastal counties must be buried to a depth of one foot below the



bed of the stream or wetland. For all culvert construction activities, the dimension, pattern, and profile of the stream, (above and below a pipe or culvert), should not be modified by widening the stream channel or by reducing the depth of the stream. Culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth specifications in this Regional Condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this Regional Condition would result in more adverse impacts to the aquatic

environment.

3. Additional Regional Conditions Applicable to this Specific Nationwide Permit.

The required restoration plan must include a timetable for restoration activities.

NORTH CAROLINA DIVISION OF WATER QUALITY
GENERAL CERTIFICATION CONDITIONS

For the most recent General Certification conditions, call the NC Division of Water Quality, Wetlands/401 Certification Unit at (919) 733- 1786 or access the following website:

<http://h2o.enr.state.nc.us/ncwetlands/certs.html>

NORTH CAROLINA DIVISION OF COASTAL MANAGEMENT
STATE CONSISTENCY

Consistent.

Citations:

2002 Nationwide Permits - Federal Register Notice 15 Jan 2002

2002 Nationwide Permits Corrections - Federal Register Notice 13 Feb 2002

2002 Regional Conditions – Authorized 17 May 2002

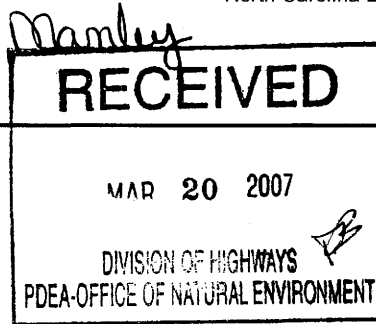


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North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor
William G. Ross Jr., Secretary

Alan W. Klimek, P.E. Director
Division of Water Quality



March 16, 2007
Nash County
DWQ Project No. 20070366
Bridge 34 on SR 1004
TIP# B-3876

APPROVAL of 401 WATER QUALITY CERTIFICATION and TAR-PAMLICO BUFFER AUTHORIZATION, with ADDITIONAL CONDITIONS

Dr. Gregory J. Thorpe, Ph.D.
NCDOT Project Development and Environmental Analysis Branch
1598 Mail Service Center
Raleigh, NC 27699

Dear Dr. Thorpe:

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of replacing Bridge 34 in Nash County:

Stream Impacts in the Tar-Pamlico River Basin

Site	Permanent Fill in Perennial Stream (linear ft)	Temporary Dewatering in Perennial Stream (linear ft)	Total Stream Impact (linear ft)
1	30	30 (concurrent) 79 (additional)	109
Total	30	109	109

Total Stream Impact for Project: 109 linear feet.

Wetland Impacts in the Tar-Pamlico River Basin

Site	Fill (ac)	Mechanized Clearing (ac)	Total Wetland Impact (ac)
2	0.12	0.01	0.13
Total	0.12	0.01	0.13

Total Wetland Impact for Project: 0.13 acres.

Tar-Pamlico Riparian Buffer Impacts

Site	Zone 1 Impact (sq ft)	minus Wetlands in Zone 1 (sq ft)	= Zone 1 Buffers (not wetlands) (sq ft)	Zone 1 Buffer Mitigation Required (using 3:1 ratio)	Zone 2 Impact (sq ft)	minus Wetlands in Zone 2 (sq ft)	= Zone 2 Buffers (not wetlands) (sq ft)	Zone 2 Buffer Mitigation Required (using 1.5:1 ratio)
1	2,723	0	2,723	N/A	1,382	0	1,382	N/A
2-Road	1,276	0	1,276	N/A	2,532	0	2,532	N/A
2-Bridge	2,743	0	2,743	0	0	0	0	0
Totals	6,742	0	6,742	0	3,914	0	3,914	0

* n/a = Total for Site is less than 1/3 acre and 150 linear feet of impact, no mitigation required

Total Buffer Impact for Project: 10,656 square feet.



The project shall be constructed in accordance with your application dated received March 5, 2007 and addendum received March 12, 2007. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Numbers 3494 and 3404. This certification corresponds to the Nationwide Permit 3 and General Permit 31 issued by the Corps of Engineers. This approval is also valid for the Tar-Pamlico Riparian Buffer Rules (15A NCAC 2B.0259). In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must notify the DWQ and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If total wetland fills for this project (now or in the future) exceed one acre, or of total impacts to streams (now or in the future) exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you must adhere to the conditions listed in the attached certification as well as those listed below.

Conditions of Certification:

1. For the onsite wetland restoration site, NCDOT shall monitor vegetation success by visual observation and photo documentation and will submit an annual report to DWQ. DOT shall monitor the site for a minimum of three years or until the site is deemed successful in writing by DWQ.
2. Upon success of the onsite wetland restoration site, NCDOT will have 0.4 acres of riparian wetland restoration credit available for use in the eight digit HUC 03020101.
3. Strict adherence to the most recent version of NCDOT's Best Management Practices For Bridge Demolition and Removal approved by the US Army Corps of Engineers is a condition of the 401 Water Quality Certification.
4. Bridge deck drains should not discharge directly into the stream. Stormwater should be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. Please refer to the most current version of *Stormwater Best Management Practices*.
5. Placement of culverts and other structures in waters, streams, and wetlands shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by DWQ. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact the NC DWQ for guidance on how to proceed and to determine whether or not a permit modification will be required.
6. Riprap should not be placed in the active thalweg channel or placed in the streambed in a manner that precludes aquatic life passage. Bioengineering boulders or structures should be properly designed, sized and installed.
7. For the 109 linear feet of streams being impacted due to site dewatering activities, the site shall be graded to its preconstruction contours and revegetated with appropriate native species.
8. In accordance with commitments made in your application, due to potential sedimentation concerns resulting from demolition of the bridges, where it is possible to do so, turbidity curtains will be used to minimize sedimentation in the stream.



9. All stormwater runoff shall be directed as sheetflow through stream buffers at nonerosive velocities, unless otherwise approved by this certification.
10. All riparian buffers impacted by the placement of temporary fill or clearing activities shall be restored to the preconstruction contours and revegetated. Maintained buffers shall be permanently revegetated with non-woody species by the end of the growing season following completion of construction. For the purpose of this condition, maintained buffer areas are defined as areas within the transportation corridor that will be subject to regular DOT maintenance activities including mowing. The area with non-maintained buffers shall be permanently revegetated, with native woody species before the next growing season following completion of construction.
11. Pursuant to NCAC15A 2B.0259(6), sediment and erosion control devices shall not be placed in Zone 1 of any Tar-Pamlico Buffer without prior approval by the NCDWQ. At this time, the NCDWQ has approved no sediment and erosion control devices in Zone 1, outside of the approved project impacts, anywhere on this project. Moreover, sediment and erosion control devices shall be allowed in Zone 2 of the buffers provided that Zone 1 is not compromised and that discharge is released as diffuse flow.
12. If concrete is used during construction, a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills.
13. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers.
14. The dimension, pattern and profile of the stream above and below the crossing should not be modified. Disturbed floodplains and streams should be restored to natural geomorphic conditions.
15. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage.
16. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water.
17. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream.
18. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials.
19. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.
20. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
21. The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If DWQ determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, DWQ may reevaluate and modify this certification.



22. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification..

23. A copy of this Water Quality Certification shall be posted on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager.

24. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification.

25. Upon completion of the project, the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed.

26. Native riparian vegetation must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.

27. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification. Should waste or borrow sites be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities.

28. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:

- a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
- b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
- c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
- d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.

29. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored upon completion of the project.



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor
William G. Ross Jr., Secretary

Alan W. Klimek, P.E. Director
Division of Water Quality

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If you do not accept any of the conditions of this certification, you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition that conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699. This certification and its conditions are final and binding unless you ask for a hearing. This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act. If you have any questions, please contact Rob Ridings at (919) 733-9817.

Sincerely,

Alan W. Klimek, P.E.

Attachments (General Certification and Certificate of Completion form)

cc: Jamie Guerrero, Division 4 Environmental Officer
William Wescott, US Army Corps of Engineers, Washington Field Office
Chris Manley, NCDOT PDEA
Travis Wilson, NC Wildlife Resources Commission
Gary Jordan, US Fish and Wildlife Service
Ecosystem Enhancement Program
DWQ Raleigh Regional Office copy
File Copy



DWQ Project No.: _____ County: _____

Applicant: _____

Project Name: _____

Date of Issuance of 401 Water Quality Certification: _____

***Certificate of Completion**

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return this certificate to the 401 Transportation Permitting Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650. This form may be returned to DWQ by the applicant, the applicant's authorized agent, or the project engineer. It is not necessary to send certificates from all of these.

Applicant's Certification

I, _____, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: _____ Date: _____

Agent's Certification

I, _____, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: _____ Date: _____

Engineer's Certification

_____ Partial _____ Final

I, _____, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to observe (periodically, weekly, full time) the construction of the project, for the Permittee hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature _____ Registration No. _____

Date _____

**GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS
NATIONWIDE PERMIT NUMBERS 3 (MAINTENANCE),
4 (FISH AND WILDLIFE HARVESTING DEVICES AND ACTIVITIES),
5 (SCIENTIFIC MEASUREMENT DEVICES), 6 (SURVEY ACTIVITIES),
7 (OUTFALL STRUCTURES), 19 (25 CUBIC YARDS OF FILL), 20 (OIL SPILL CLEANUP), 22
(REMOVAL OF VESSELS), 25 (STRUCTURAL DISCHARGE),
30 (MOIST SOIL MANAGEMENT FOR WILDLIFE), 32 (COMPLETED ENFORCEMENT
ACTIONS), 36 (BOAT RAMPS [IN NONWETLAND SITES]), REGIONAL PERMIT 197800056
(PIERS, DOCKS AND BOATHOUSES) AND REGIONAL PERMIT 197800125 (BOAT RAMPS)
AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)**

This General Certification is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (DWQ) Regulations in 15 NCAC 2H, Section .0500 and 15 NCAC 2B .0200 for the discharge of fill material to waters and wetland areas which are waters of the United States as described in 33 CFR 330 Appendix A (B) (3, 4, 5, 6, 7, 19, 20, 22, 25, 30, 32, and 36) of the Corps of Engineers regulations and Regional Permits 197800056 and 19780125 and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200. This Certification replaces Water Quality Certification Number 3376 issued on March 18, 2002. This WQC is rescinded when the Corps of Engineers re-authorizes any of these Nationwide or Regional Permits or when deemed appropriate by the Director of the Division of Water Quality.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

Conditions of Certification:

1. These activities do not require written concurrence from the Division of Water Quality as long as they comply with all conditions of this General Certification. If any condition in this Certification cannot be met, application to and written concurrence from DWQ are required. Also, Condition No. 8 is applicable to all streams in basins with riparian area protection rules;
2. If the activity is associated with or in response to a Notice of Violation or an enforcement action initiated by DWQ or the Division of Land Resources, this General Certification requires application to and prior written concurrence from the Division of Water Quality;
3. That appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard;
4. All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored within two months after the Division of Land Resources has released the project;
5. If an environmental document is required, this Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse;

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6. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;
7. Access roads constructed for any of these permits shall be constructed so as to minimize wetland fill as much as is practicable and shall be restored to grade immediately after the project is completed. The site shall be re-vegetated with native species which shall be in place within three months following construction or before initiation of the next growing season;
8. In accordance with North Carolina General Statute Section 143-215.3D(e), any request for written concurrence for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted and will be the higher of the two fees;
9. Impacts to any stream length in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse and Tar-Pamlico River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0200. All new development shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices;
10. Placement of culverts and other structures in waters, streams and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in destabilization of streams or wetlands. If more than 150 linear feet of additional stream is filled, culverted, rip-rapped, relocated, excavated or dredged as a result of this permit, then an application to DWQ is needed and compensatory mitigation may be required;
11. Additional site-specific conditions may be added to projects for which written concurrence is required or requested under this Certification in order to ensure compliance with all applicable water quality and effluent standards;
12. Applications for riprap groins proposed in accordance with 15A NCAC 07H .1401 (NC Division of Coastal Management General Permit for construction of Wooden and Riprap Groins in Estuarine and Public Trust Waters) must meet all the specific conditions for design and construction specified in 15A NCAC 07H .1405.
13. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of these corresponding Nationwide and Regional General Permits, whichever is sooner;

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14. Projects with any impacts to streams, wetlands, and/or waters that have received a Notice of Violation from the Division of Land Resources and/or the Division of Water Quality are required to submit a complete application and receive written concurrence to use this Certification regardless of the proposed impact amount to streams, wetlands, and waters.
15. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed;
16. Standard Erosion and Sediment Control Practices:

Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices:

- a. Erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
 - b. Design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
 - c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
 - d. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
 - e. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.
17. No Impacts Beyond those in Application

No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts depicted in the Pre-construction Notification. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

18. No Sediment and Erosion Control Measures in Wetlands

Sediment and erosion control measures shall not be placed in wetlands or waters to the maximum extent practicable. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored within six months of the date that the Division of Land Resources or locally delegated program has released the project.

Non-compliance with or violation of the conditions herein set forth by a specific fill project shall result in revocation of this Certification for the project and may result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for Individual Certification for any project in this category of activity if it is determined that the project is likely to have a significant adverse effect upon water quality including state or

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federally listed endangered or threatened aquatic species or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: 31 December 2004

DIVISION OF WATER QUALITY

By



Alan W. Klimek, P.E.

Director

WQC # 3494

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**GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS
NATIONWIDE PERMIT NUMBER 14 (ROAD CROSSINGS) AND REGIONAL GENERAL
PERMIT 198200031 (WORK ASSOCIATED WITH BRIDGE CONSTRUCTION, MAINTENANCE
OR REPAIR CONDUCTED BY NCDOT OR OTHER GOVERNMENT AGENCIES)
AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)**

This General Certification is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (DWQ) Regulations in 15A NCAC 2H, Section .0500 and 15A NCAC 2B .0200 for the discharge of fill material to waters and adjacent wetland areas or to wetland areas that are not a part of the surface tributary system to interstate waters or navigable waters of the United States (i.e., isolated wetlands) as described in 33 CFR 330 Appendix A (B) (14) of the Corps of Engineers regulations (Nationwide Permit No. 14 and Regional General Permit 198200031) and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200. The category of activities shall include any fill activity for road crossings and is limited to fill less than one-third acre in tidal waters and less than one-half acre in non-tidal waters. This Certification replaces Water Quality Certification Number 2177 issued on November 5, 1987, Water Quality Certification Number 2666 issued on January 21, 1992, Water Quality Certification Number 2732 issued on May 1, 1992, Water Quality Certification Number 3103 issued on February 11, 1997, Water Quality Certification Number 3289 issued on June 1, 2000 and Water Quality Certification Number 3375 issued March 18, 2002. This WQC is rescinded when the Corps of Engineers re-authorizes Nationwide Permit 14 or Regional General Permit 198200031 or when deemed appropriate by the Director of DWQ.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

Conditions of Certification:

1. Enumerating and Reporting of Impacts:

- Streams - Impacts to streams as determined by the Division of Water Quality shall be measured as length of the centerline of the normal flow channel. Permanent and/or temporary stream impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used. Stream relocations and stream bed and/or bank hardening are considered to be permanent stream impacts. Any activity that results in a loss of use of stream functions including but not limited to filling, relocating, flooding, dredging and complete shading shall be considered stream impacts. Enumeration of impacts to streams shall include streams enclosed by bottomless culverts, bottomless arches or other spanning structures when a 404 Permit is used anywhere in a project unless the entire structure (including construction impacts) spans the entire bed and both banks of the stream, is only used for a road, driveway or path crossing, and is not mitered to follow the stream pattern. Impacts for dam footprints and flooding will count toward the threshold for stream impacts, but flooding upstream of the dam will not (as long as no filling, excavation, relocation or other modification of the existing stream dimension, pattern or profile occurs) count towards mitigation requirements.
- Wetlands - Impacts to wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary wetland impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used. Any activity that results in a loss of use of wetland functions including but not limited to filling, draining, and flooding shall be considered wetland impacts. Enumeration of impacts to wetlands shall include activities that change the hydrology of a wetland when a 404 Permit is used anywhere in a project.

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- Lakes and Ponds – Lake and Pond Impacts Enumeration- Impacts to waters other than streams and wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary water impacts shall be enumerated on the entire project for all impacts proposed regardless of which 404 Nationwide Permits are used. Any activity that results in a loss of use of aquatic functions including but not limited to filling and dredging shall be considered waters impacts;
- * 2. Proposed fill or substantial modification of wetlands or waters (including streams) under this General Certification requires application to and prior written concurrence from the Division of Water Quality;
 3. Application to and payment of a fee to DWQ is not required for construction of a driveway to a single family lot as long as the driveway impacts less than 25 feet of stream channel including any in-stream stabilization needed for the crossing;
 - * 4. Impacts to any stream length in the Neuse, Tar-Pamlico or Randleman River Basins (or any other major river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence for this Certification from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as “exempt” from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse and Tar-Pamlico River Basins shall be limited to “uses” identified within and constructed in accordance with 15A NCAC 2B .0200. All new development shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices;
 5. Irrespective of other application thresholds in this General Certification, all impacts to perennial waters and their associated buffers require written approval from DWQ since such impacts are allowable as provided in 15A NCAC 2B. 0212 (WS-I), 2B .0213 (WS-II), 2B .0214 (WS-III) and 2B .0215 (WS-IV). Only water dependent activities, public projects and structures with diminimus increases in impervious surfaces will be allowed as outlined in those rules. All other activities require a variance from the delegated local government and/or the NC Environmental Management Commission before the 401 Water Quality Certification can be processed. In addition, a 30 foot wide vegetative buffer for low density development or a 100 foot wide vegetative buffer for high density development must be maintained adjacent to all perennial waters except for allowances as provided under the Water Supply Watershed Protection Rules. For the purposes of this condition, perennial waters are defined as those shown as perennial waters on the most recent USGS 1:24,000 topographic map or as otherwise determined by local government studies;
 6. Additional site-specific stormwater management requirements may be added to this Certification at DWQ's discretion on a case by case basis for projects that have or are anticipated to have impervious cover of greater than 30 percent. Site-specific stormwater management shall be designed to remove 85% TSS according to the latest version of DWQ's Stormwater Best Management Practices manual at a minimum.

Additionally, in watersheds within one mile and draining to 303(d) listed waters, as well as watersheds that are classified as nutrient sensitive waters (NSW), water supply waters (WS), trout waters (Tr), high quality waters (HQW), and outstanding resource waters (ORW), the Division shall require that extended detention wetlands, bio-retention areas, and ponds followed by forested filter strips (designed according to latest version of the NC DENR Stormwater Best Management Practices Manual) be constructed as part of the stormwater management plan when a site-specific stormwater management plan is required.

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Alternative designs may be requested by the applicant and will be reviewed on a case-by-case basis by the Division of Water Quality.

Approval of stormwater management plans by the Division of Water Quality's other existing state stormwater programs including appropriate local programs are sufficient to satisfy this Condition as long as the stormwater management plans meet or exceed the design requirements specified in this condition. This condition applies unless more stringent requirements are in effect from other state water quality programs.

- Unless specified otherwise in the approval letter, the final, written stormwater management plan shall be approved in writing by the Division of Water Quality's Wetlands Unit before the impacts specified in this Certification occur.
 - The facilities must be designed to treat the runoff from the entire project, unless otherwise explicitly approved by the Division of Water Quality.
 - Also, before any permanent building or other structure is occupied at the subject site, the facilities (as approved by the Wetlands Unit) shall be constructed and operational, and the stormwater management plan (as approved by the Wetlands Unit) shall be implemented.
 - The structural stormwater practices as approved by the Wetlands Unit as well as drainage patterns must be maintained in perpetuity.
 - No changes to the structural stormwater practices shall be made without written authorization from the Division of Water Quality.
7. Compensatory stream mitigation shall be required at a 1:1 ratio for not only perennial but also intermittent stream impacts that require application to DWQ in watersheds classified as ORW, HQW, Tr, WS-I and WS-II unless the project is a linear, publicly-funded transportation project, which has a 150-foot per-stream impact allowance;
- * 8. In accordance with North Carolina General Statute Section 143-215.3D(e), any application for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted through the Division of Coastal Management and will be the higher of the two fees;
9. In accordance with 15A NCAC 2H .0506 (h) compensatory mitigation may be required for impacts to 150 linear feet or more of streams and/or one acre or more of wetlands. For linear public transportation projects, impacts equal to or exceeding 150 feet per stream may require mitigation. In addition, buffer mitigation may be required for any project with Buffer Rules in effect at the time of application for buffer impacts resulting from activities classified as "allowable with mitigation" within the "Table of Uses" section of the Buffer Rules or require a variance under the Buffer Rules. A determination of buffer, wetland and stream mitigation requirements shall be made for any Certification for this Nationwide Permit. The most current design and monitoring protocols from DWQ shall be followed and written plans submitted for DWQ approval as required in those protocols. When compensatory mitigation is required for a project, the mitigation plans must be approved by DWQ in writing before the impacts approved by the Certification occur, unless otherwise specified in the approval letter. The mitigation plan must be implemented and/or constructed before any permanent building or structure on site is occupied. In the case of public road projects, the mitigation plan must be implemented before the road is opened to the travelling public. Projects may also be implemented once payment is made to a private mitigation bank or other in-lieu fee program, as specified in the written concurrence of 401 Certification for a project. Please note that if a stream relocation is conducted as a stream restoration as defined in *The Internal Technical Guide for Stream Work in North Carolina*, April 2001, the restored length can be used as compensatory mitigation for the impacts resulting from the relocation;

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- * 10. For any project involving re-alignment of streams, a stream relocation plan must be included with the 401 application for written DWQ approval. Relocated stream designs should include the same dimensions, patterns and profiles as the existing channel, to the maximum extent practical. The new channel should be constructed in the dry and water shall not be turned into the new channel until the banks are stabilized. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30 foot wide wooded and an adjacent 20 foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practical. A transitional phase incorporating coir fiber and seedling establishment is allowable. Also, rip-rap may be allowed if it is necessary to maintain the physical integrity of the stream, but the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage requested. If suitable stream mitigation is not practical on-site, then stream impact will need to be mitigated elsewhere;
11. Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts including open bottom or bottomless arch culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in aggradation, degradation or significant changes in hydrology of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested to do so in writing by DWQ. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in aggradation, degradation or significant changes in hydrology of streams or wetlands;
12. That appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard;
13. All sediment and erosion control measures placed in wetlands and waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;
14. That additional site-specific conditions may be added to projects proposed under this Certification in order to ensure compliance with all applicable water quality and effluent standards;
15. Measures shall be taken to prevent live or fresh concrete from coming into contact with freshwaters of the state until the concrete has hardened;
- * 16. If an environmental document is required, this Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse;
17. If this Certification is used to access building sites, all lots owned by the applicant must be buildable without additional fill beyond that explicitly allowed under other General

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Certifications. For road construction purposes, this Certification shall only be utilized from natural high ground to natural high ground;

- * 18. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed;
- 19. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding Nationwide Permit 14 or Regional General Permit 198200031, whichever is sooner.

Non-compliance with or violation of the conditions herein set forth by a specific fill project may result in revocation of this Certification for the project and may also result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for Individual Certification for any project in this category of activity that requires written concurrence under this certification, if it is determined that the project is likely to have a significant adverse effect upon water quality or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: 28 March 2003

DIVISION OF WATER QUALITY

By



Alan W. Klimek, P.E.

Director

*Certification of Completion

DWQ Project No.: _____ County: _____

Applicant: _____

Project Name: _____

Date of Issuance of Wetland Permit: _____

Certificate of Completion

Upon completion of all work approved within the **401 Water Quality Certification and Buffer Rules**, and any subsequent modifications, the applicant is required to return this certificate to the 401 Oversight/Express Permitting Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650. This form may be returned to DWQ by the applicant, the applicant's authorized agent, or the project engineer. It is not necessary to send certificates from all of these.

Applicant's Certification

I, _____, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the **401 Water Quality Certification and Buffer Rules**, the approved plans and specifications, and other supporting materials.

Signature: _____ Date: _____

Agent's Certification

I, _____, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the **401 Water Quality Certification and Buffer Rules**, the approved plans and specifications, and other supporting materials.

Signature: _____ Date: _____

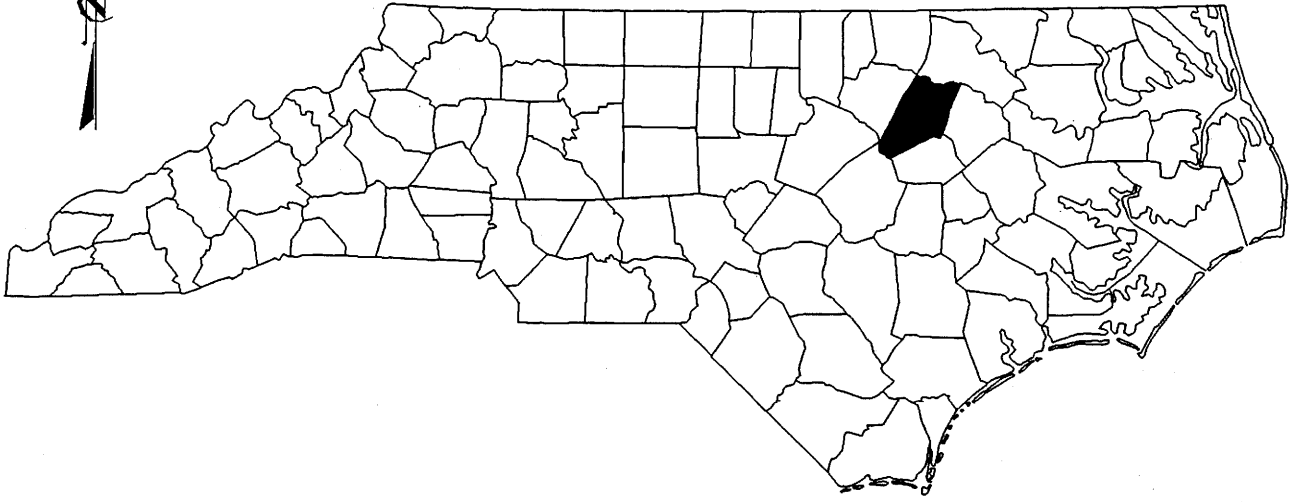
If this project was designed by a Certified Professional

I, _____, as a duly registered Professional _____ (i.e., Engineer, Landscape Architect, Surveyor, etc.) in the State of North Carolina, having been authorized to observe (periodically, weekly, full time) the construction of the project, for the Permittee hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the **401 Water Quality Certification and Buffer Rules**, the approved plans and specifications, and other supporting materials.

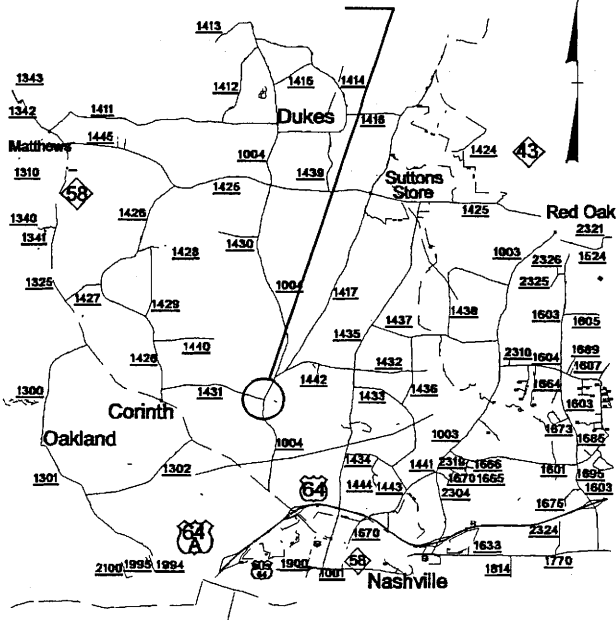
Signature: _____ Registration No. _____ Date _____

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NORTH CAROLINA



PROJECT SITE



Wetlands and Surface Waters

NCDOT

DIVISION OF HIGHWAYS
NASH COUNTY

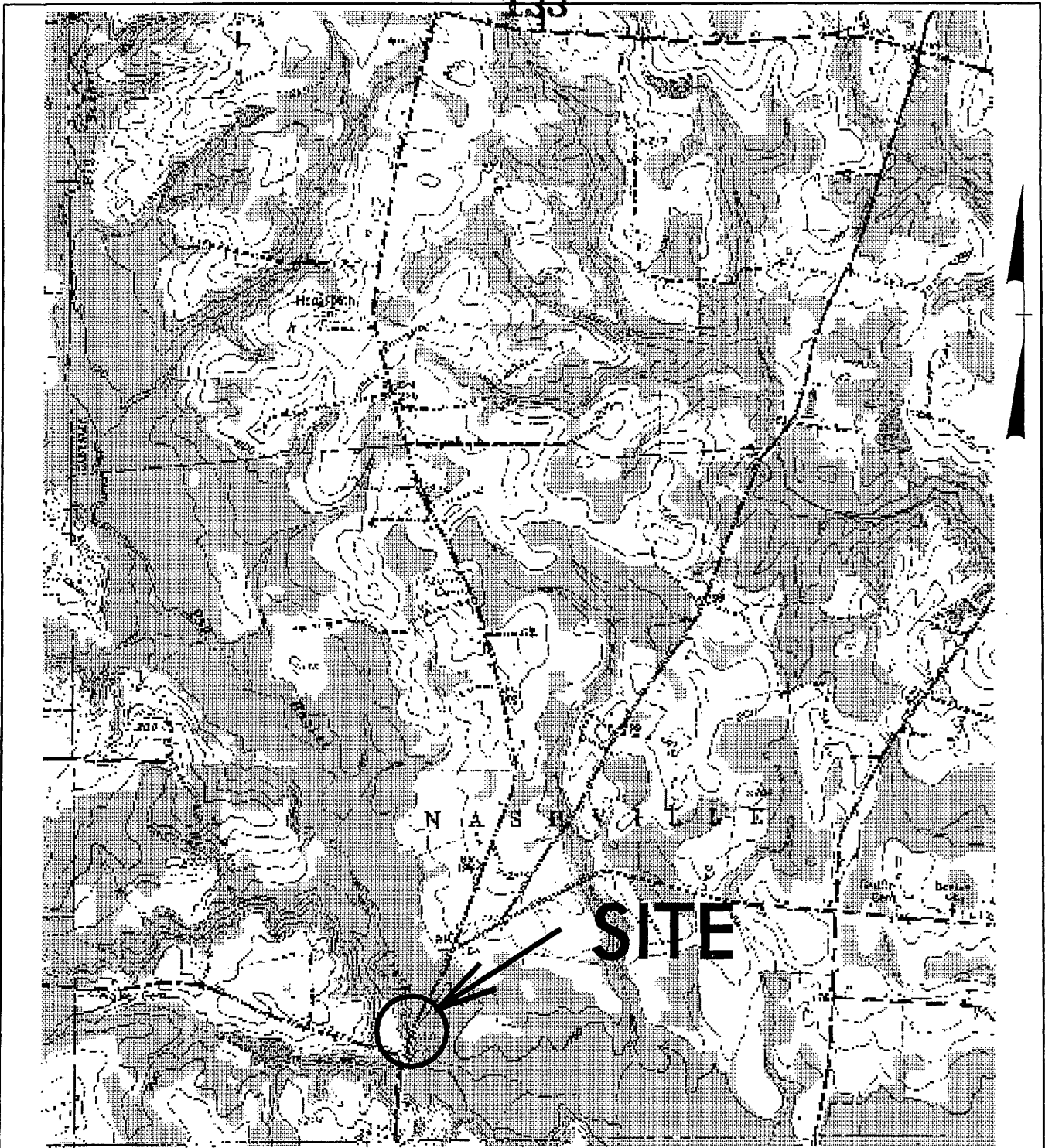
PROJECT: 8.2322101 (B-3876)
REPLACEMENT OF BRIDGE 34
ON SR 1004 OVER
PIG BASKET CREEK

SHEET

1

OF 10

1 / 22 / 07



SITE MAP
(SITE 1)

NCDOT
DIVISION OF HIGHWAYS
NASH COUNTY
PROJECT: 8.2322101 (B-3876)
REPLACEMENT OF BRIDGE 34
ON SR 1004 OVER
PIG BASKET CREEK

PROPERTY OWNERS

NAMES AND ADDRESSES

PARCEL NO.	NAMES	ADDRESSES
6	AVR Limited Partnership	2718 Old Bailey Hwy Nashville, NC 27856
3	William Braswell	2820 Mary Marvin Trail Fuquay Varina, NC 27526
5	George Collins	4803 Red Oak Rd. Nashville, NC 27856
2	Ethel Daniels	1833 Taylors Store Rd. Nashville, N.C. 27856
8	Battle Morris C/O Lillie Mae Roberson	2559 Taylors Store Rd. Nashville, N.C. 27856
7	R.J. Plyer, Heirs C/O Carl W. Blackwood	P.O. Box 361 Farmville, NC 27828
4	Richard Tyson	1234 Taylors Store Road Nashville, NC 27856
1	Guy Vick	1330 Taylors Store Rd. Nashville, NC 27856

NCDOT
 DIVISION OF HIGHWAYS
 NASH COUNTY
 PROJECT: 8.2322101 (B-3876)
 REPLACEMENT OF BRIDGE 34
 ON SR 1004 OVER
 PIG BASKET CREEK

WETLAND PERMIT IMPACT SUMMARY

Site No.	Station (From/To)	Structure Size / Type	WETLAND IMPACTS						SURFACE WATER IMPACTS				
			Permanent Fill In Wetlands (ac)	Temp. Fill In Wetlands (ac)	Excavation in Wetlands (ac)	Mechanized Clearing in Wetlands (ac)	Hand Clearing in Wetlands (ac)	Permanent SW impacts (ac)	Temp. SW impacts (ac)	Existing Channel Impacts Permanent (ft)	Existing Channel Impacts Temp. (ft)	Natural Stream Design (ft)	
1	15+45-Y- (LT)	60" RCP							0.003	0.025	30	109	0
2	19+68 -L- to 24+70 -L-	150' Bridge	0.12	0.00	0.00	0.01	0.00						
TOTALS:			0.12			0.01			0.003	0.025	30	109	

SITE 3 STREAM ENHANCEMENT=90 LF
 SITE 4 WETLAND RESTORATION =0.22 AC
 SITE 5 WETLAND RESTORATION =0.31 AC

NC DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS

NASH COUNTY
 WBS - 33320.1.1 (B-3876)

4 of 10

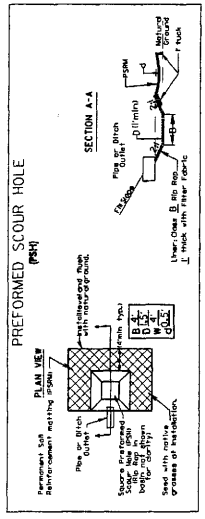
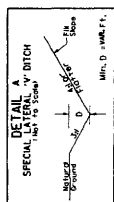
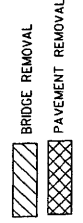
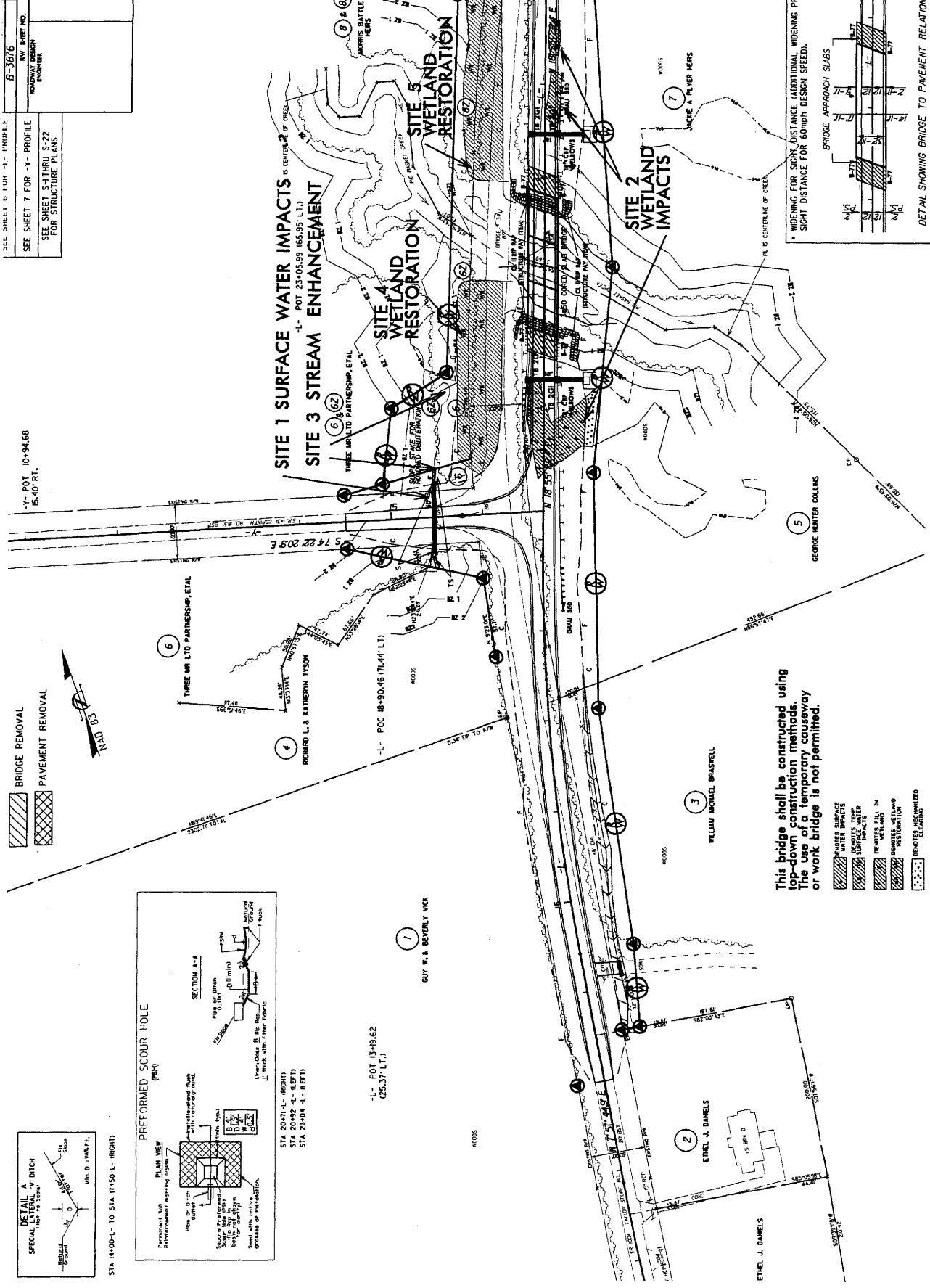
SHEET 3/12/2007

SEE SHEET 6 FOR 'L' PROFILE
 SEE SHEET 7 FOR 'Y' PROFILE
 SEE SHEET 5-1 THRU 5-22 FOR STRUCTURE PLANS

B-3876
 HWY. DIST. NO.
 ROADWAY DESIGN ENGINEER
 HYDRAULIC ENGINEER

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MATCHLINE SEE SHEET 5 -L- STA. 25+00.00

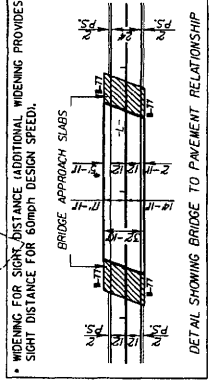


STA 2047+L (RIGHT)
 STA 2340+L (LEFT)

-L- POT 18+90.46 (71.44' LT.)
 (25.37' LT.)

This bridge shall be constructed using top-down construction methods. The use of a temporary causeway or work bridge is not permitted.

- WATERS SURFACE
- WETLAND IMPACTS
- WETLAND RESTORATION
- BRIDGES, UNAUTHORIZED REMOVALS



DETAIL SHOWING BRIDGE TO PAVEMENT RELATIONSHIP

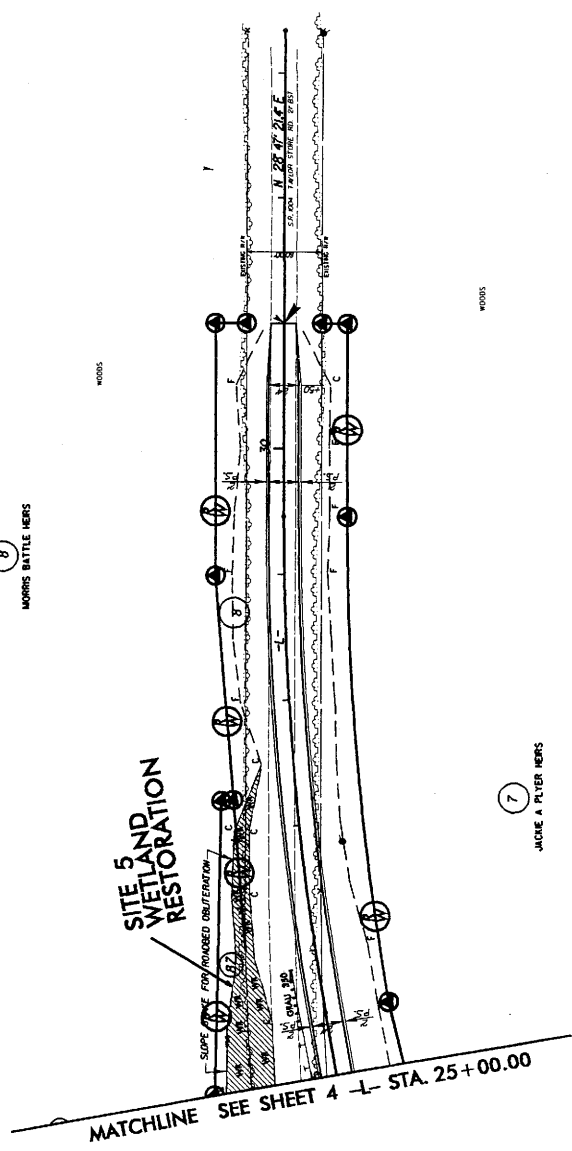
SEE SHEET 6 FOR -L- PROFILE	PROJECT REFERENCE NO.	7	SHEET NO.	138
	HW SHEET NO.	B-3976	HYDRAULIC ENGINEER	
ROADWAY DESIGN DIVISION				

138



(B) MORRIS BATTLE MERS

(7) JACKIE A PLYER MERS



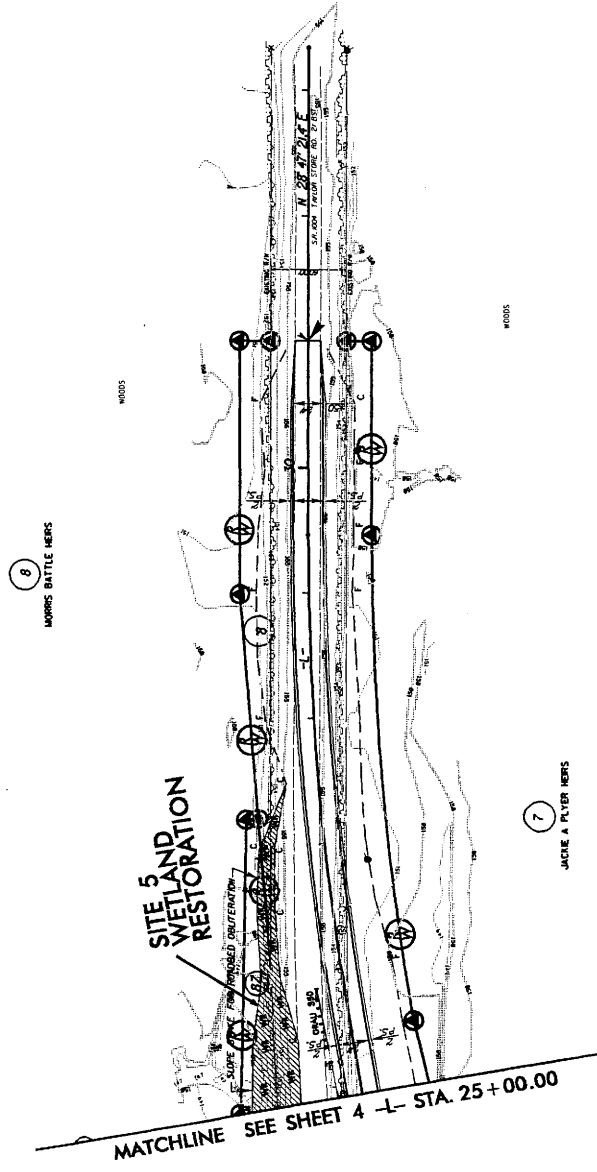
9/17

REVISIONS

20-FEB-2007 08:45
 r:\pds\49\p\19875\94\ps\05.dgn
 11/11/07 51:42:00

SEE SHEET 6 FOR -L- PROFILE	PROJECT REFERENCE NO. B-3876	SHEET NO. 10
	HWY. SHEET NO. ROADWAY DESIGN ENGINEER	HYDRAULIC ENGINEER

139



2/17/8

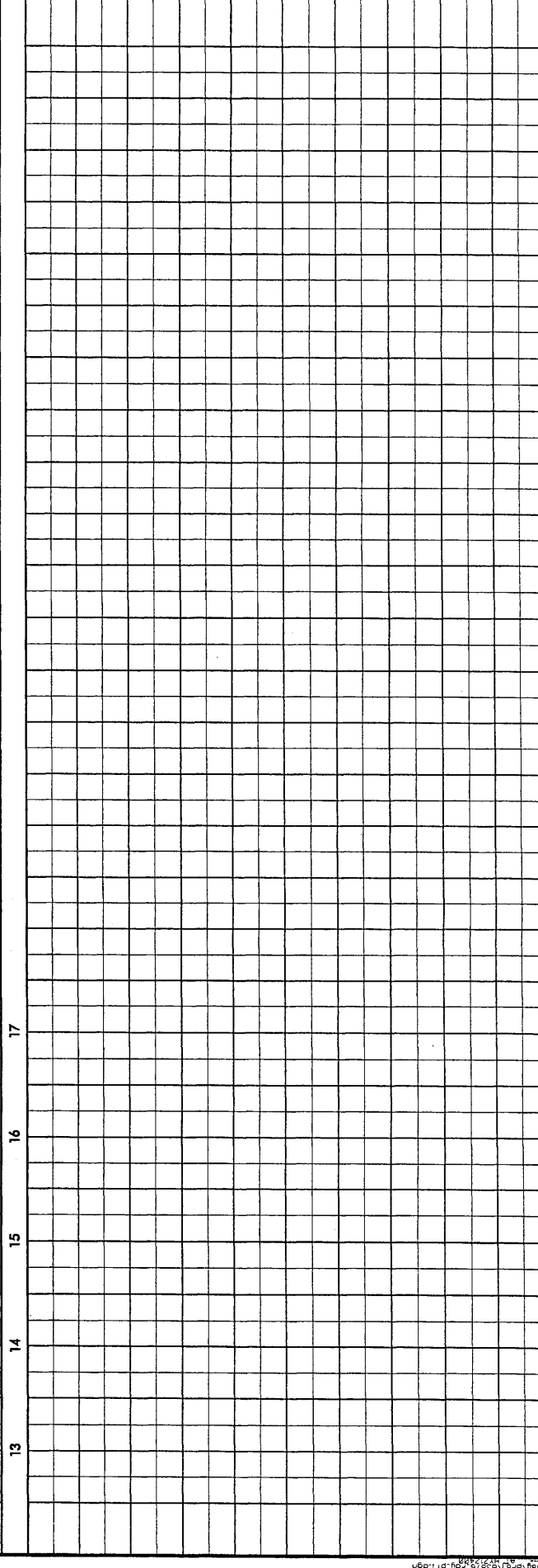
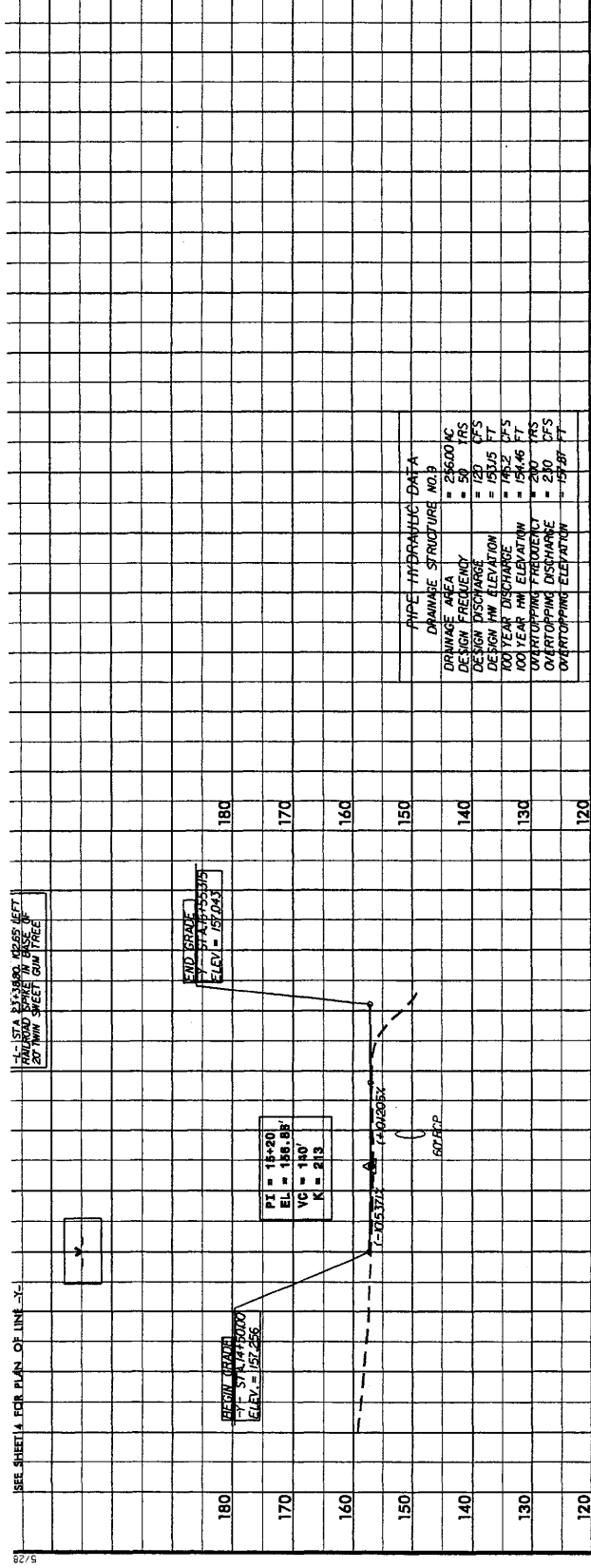
REVISIONS

20-53-2007 084
 21-08-04 VPL 103876-94-05-05-99
 10/12/2008

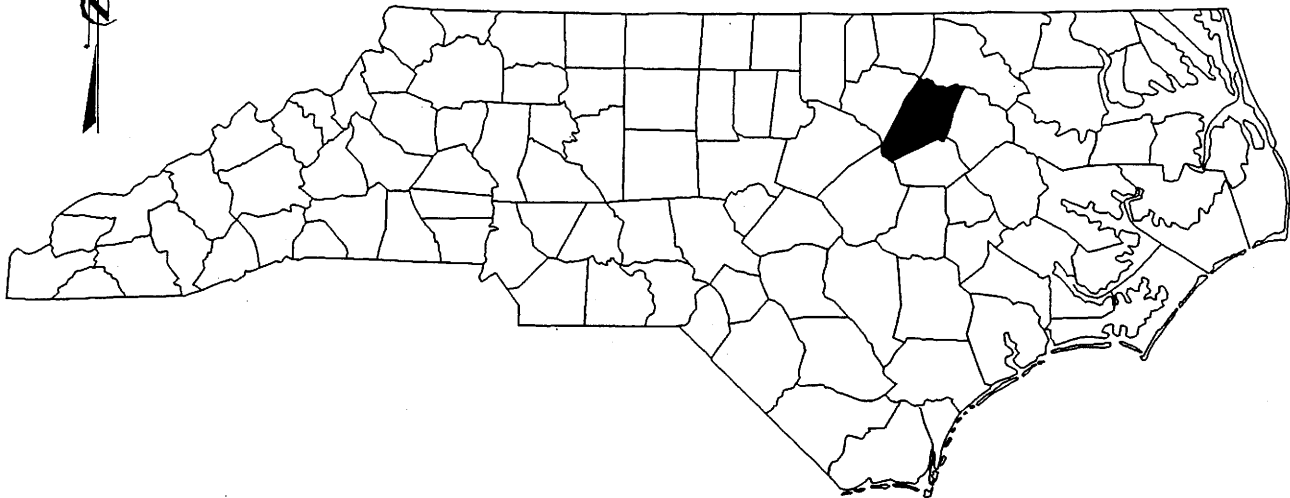
B-3876
 ROADWAY DESIGN
 ENGINEER

16
 HYDRAULICS
 ENGINEER

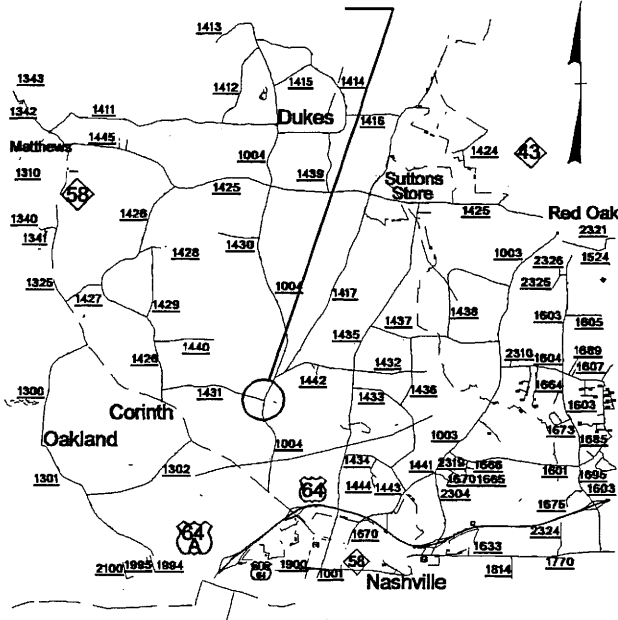
PRELIMINARY PLANS
 FOR THE
 [Project Name]



142
NORTH CAROLINA

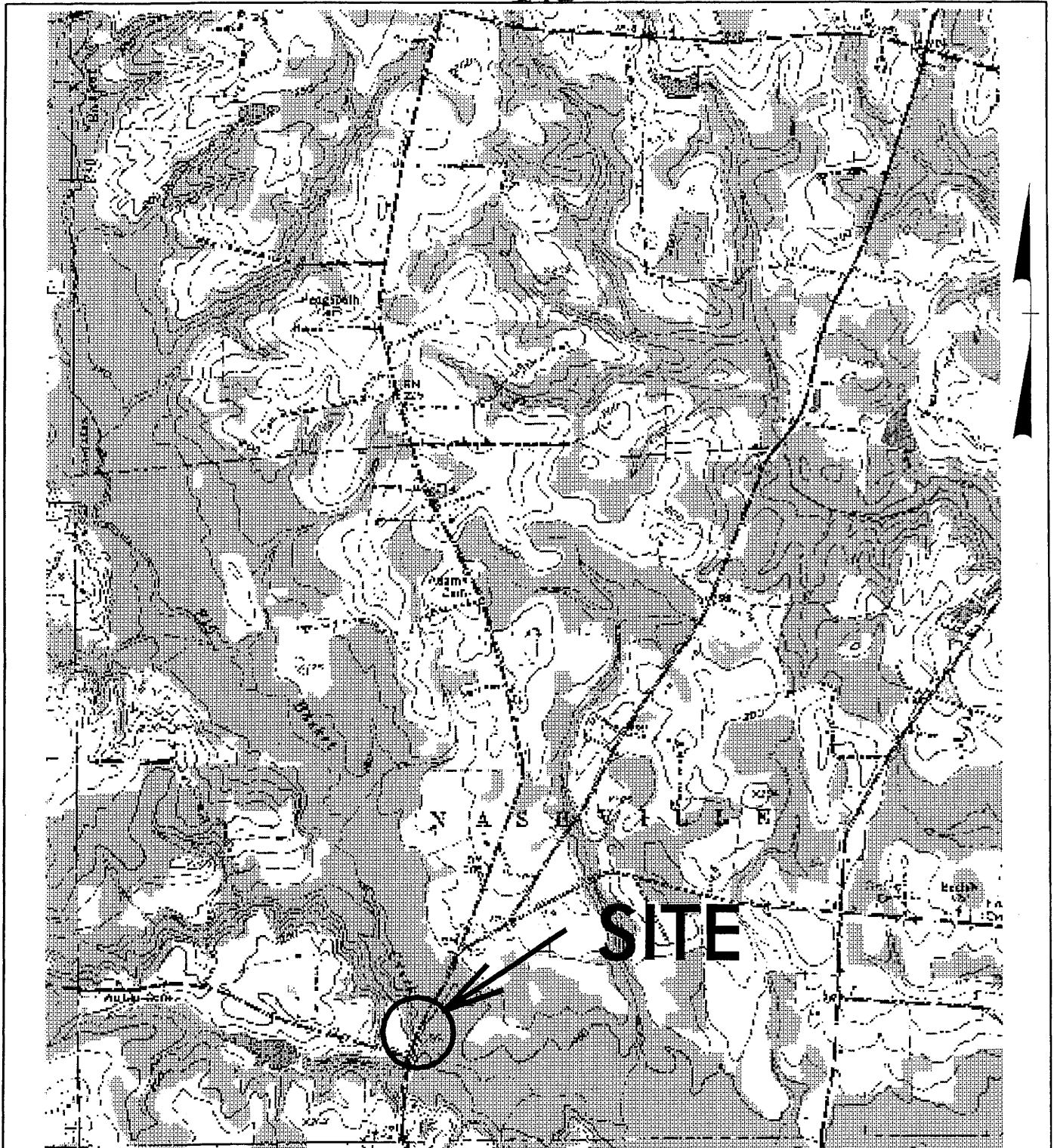


PROJECT SITE



Tar - Pamlico
Buffer

NCDOT
DIVISION OF HIGHWAYS
NASH COUNTY
PROJECT: 8.2322101 (B-3876)
REPLACEMENT OF BRIDGE 34
ON SR 1004 OVER
PIG BASKET CREEK



SITE MAP
(SITE 1)

NCDOT
DIVISION OF HIGHWAYS
NASH COUNTY
PROJECT: 8.2322101 (B-3876)
REPLACEMENT OF BRIDGE 34
ON SR 1004 OVER
PIG BASKET CREEK

BUFFER IMPACTS SUMMARY

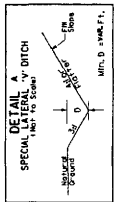
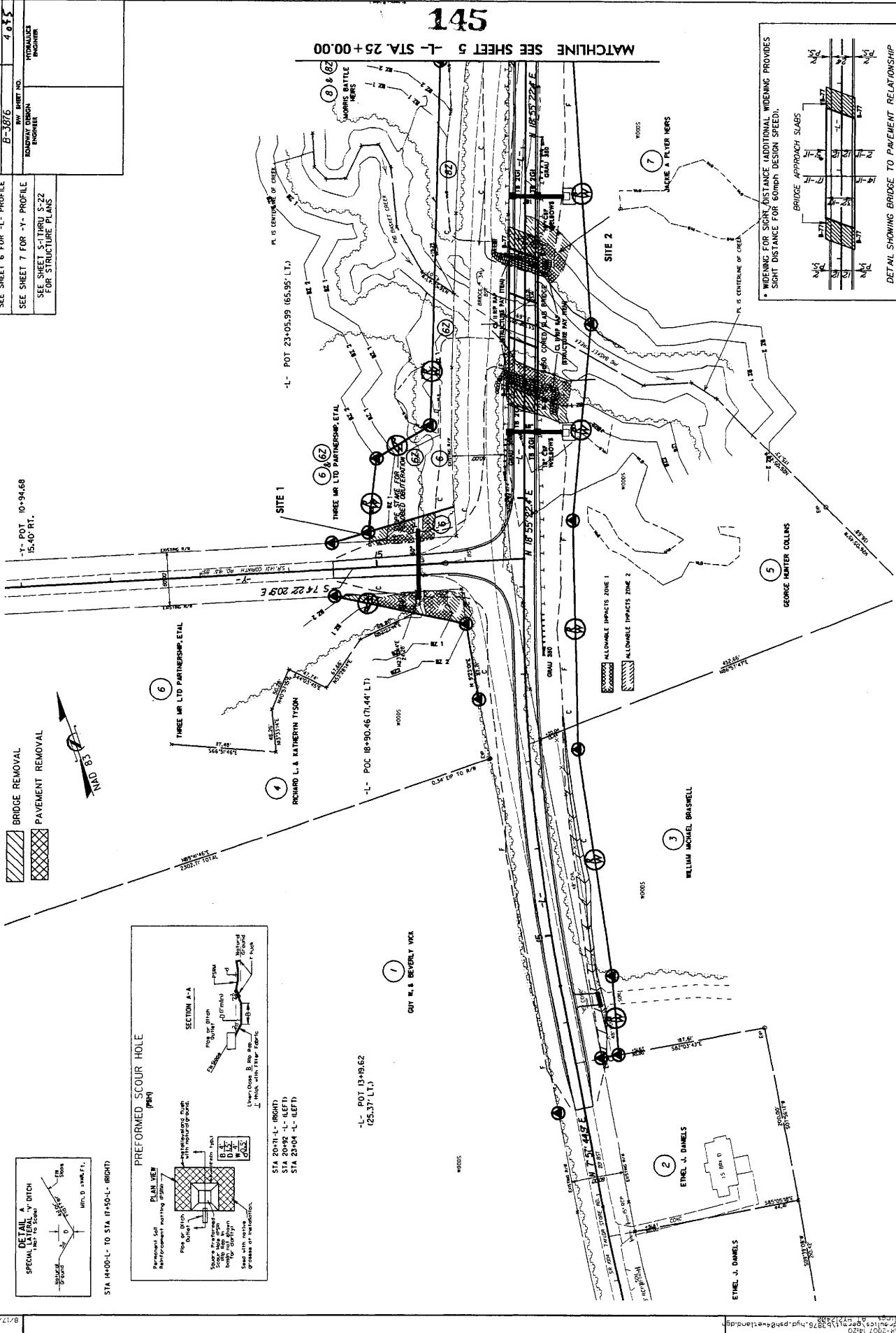
SITE NO.	STRUCTURE SIZE / TYPE	STATION (FROM/TO)	IMPACT										BUFFER REPLACEMENT			
			TYPE		ALLOWABLE		MITIGABLE		REPLACEMENT		REPLACEMENT					
			ROAD CROSSING	BRIDGE	ZONE 1 (ft ²)	ZONE 2 (ft ²)	TOTAL (ft ²)	ZONE 1 (ft ²)	ZONE 2 (ft ²)	TOTAL (ft ²)	ZONE 1 (ft ²)	ZONE 2 (ft ²)				
1	60" RCP	Sta 18+50 +/- LT. Sta. 19+90 +/- LT.	X							2723.0	1382.0	4105.0				
2	Bridge	Sta. 20+85 +/- Sta 23+00 +/-	X							1276.0	2532.0	3808.0				
										2743.0	0.0	2743.0				
TOTAL:					2743.0	0.0	2743.0	3999.0	3914.0	7913.0	0.0	0.0				

N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS

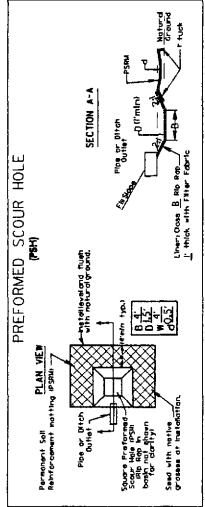
NASH COUNTY
PROJECT: 33320.1.1 (B-3876)

2/28/2007
SHEET 3 OF 5

PROJECT REFERENCE NO. B-3876	SHEET NO. 4 OF 5
SEE SHEET 6 FOR -L- PROFILE	HYDRAULICS ENGINEER
SEE SHEET 7 FOR -Y- PROFILE	ROADWAY DESIGN ENGINEER
SEE SHEET 5-THRU 5-22 FOR STRUCTURE PLANS	



STA 11+00-L TO STA 11+50-L (RIGHT)

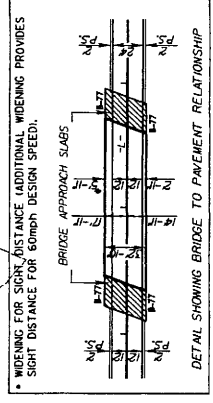


STA 20+71-L (RIGHT)
STA 20+42 -L- (LEFT)
STA 20+04 -L- (LEFT)

-L- POT 13+15.62
(25.37' LT.)

MATCHLINE SEE SHEET 5 -L- STA. 25+00.00

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SEE SHEET 6 FOR -L- PROFILE B-3876	SEE SHEET 7 FOR -Y- PROFILE S-1140
SEE SHEET S-1140 S-22 FOR STRUCTURE PLANS	HYDRAULIC ENGINEER

HYDRAULIC ENGINEER
B-3876
S-1140

SEE SHEET 6 FOR -L- PROFILE
SEE SHEET 7 FOR -Y- PROFILE
SEE SHEET S-1140 S-22
FOR STRUCTURE PLANS

Y-Y POT 10+94.68
15-40 FT.
-L- POT 23+05.99 (65.95' LT.)

